

CIVIL

EMANUEL THOMAS NEWMAN,
PLAINTIFF,

CASE No. 1:CV-01-0677

V.

LOUIS CAPRIO,
JIMMIE L. WHITE, JR, ETAL.,
DEFENDANTS

(CONNER, J)

FILED
HARRISBURG, PA
FEB 28 2005
MARY E D'ANDREA, CLERK
Per Deputy Clerk

PLAINTIFF'S REBUTTLE
TO DEFENDANT'S RESPONSE TO HIS
MOTION FOR ORDER TO PAY COST

COMES NOW, EMANUEL THOMAS NEWMAN,
PLAINTIFF, PRO-SE, AND SUBMITS THE
FOLLOWING REBUTTAL IN OPPOSITION TO
DEFENDANTS RESPONSE TO HIS MOTION FOR
AN ORDER TO PAY COST.

IN SUPPORT THEREOF PLAINTIFF STATES:

1) ON OCTOBER 22, 2004, THIS COURT
ORDERED THE DEFENDANTS TO PAY THIS PLAINTIFF
\$225.00 IN COURT COST.

2) THE DEFENDANTS IN THEIR RESPONSE ADMIT THAT THIS PLAINTIFF HAS NOT BEEN REIMBURSED YET, AND CLAIM THAT AS OF FEBRUARY 18, 2005, THEY PURCHASED A MONEY ORDER IN THE AMOUNT OF \$225.00, AND SENT IT TO HIM AT F.C.I. OXFORD IN THE STATE OF WISCONSIN. THE DEFENDANTS FURTHER STATE, THAT BECAUSE OF THIS ATTEMPT AT REIMBURSEMENT PLAINTIFF'S MOTION IS MOOT.

3) PLAINTIFF STATES THAT BOTH DEFENDANTS ARE SEASONED FEDERAL BUREAU OF PRISONS STAFF PERSONS, WHO HOLD SUPERVISORY RANK, AND ARE WELL AWARE OF NATIONAL B.O.P. POLICY, WHICH THEY TESTIFIED TO DURING TRIAL.

4) ON DECEMBER 1, 2004 THE BOP PUT A NEW POLICY INTO EFFECT "NATIONALLY". ALL FUNDS FROM ANY SOURCE MUST BE SENT TO A CENTRAL PROCESSING CENTER IN DES MOINES, IOWA. (SEE ATTACHED EX.1). THIS WAS NOT DONE IN THIS CASE, AND THE PROCESSING TIME TO RETURN THE MONEY ORDER TO SENDER TAKE BETWEEN 2 TO 4 WEEKS.

5) ON TOP OF THAT, EVEN IF THERE WAS NO NEW NATIONAL B.O.P. POLICY, THE DEFENDANTS FAILED TO INCLUDE PLAINTIFF'S REG NUMBER, AND ALL B.O.P. STAFF KNOW THAT NO INMATE CAN RECEIVE ANY FUNDS IF HIS REG NUMBER IS NOT ON THE MONEY ORDER (SEE ATTACHED EX.2).

6) LASTLY, IN ORDER FOR THE FUNDS TO BE RETURNED THE NAME AND ADDRESS OF THE SENDER MUST APPEAR IN THE UPPER LEFT HAND CORNER OF THE ENVELOPE OR ON THE MONEY ORDER TO ENSURE RETURN. ACCORDING TO MAILROOM STAFF AT OXFORD THERE WAS NO NAME ON THE ENVELOPE, WITHOUT PLAINTIFF'S REG NUMBER OR A CLEARLY PRINTED NAME TO RETURN THE MONEY ORDER TO, IT WILL BE SENT BACK TO U.S.P. ALLENWOOD (P.O. Box 3500), WHERE IT WILL hang IN LIMBO UNTIL WHENEVER. (SEE ATTACHED EX.1).

7) PLAINTIFF DOES NOT THINK THAT EITHER DEFENDANT IS INEPT OR INCOMPETENT, AND KNOWS THAT THEY ARE WELL AWARE OF WHAT WILL HAPPEN TO SAID MONEY ORDER, BECAUSE OF THE WAY IT WAS SENT.

THEREFORE, PLAINTIFF MOVES THE COURT TO ORDER THE DEFENDANTS TO FORWARD A CHECK OR MONEY ORDER IN THE AMOUNT OF \$225.00, TO THE FEDERAL BUREAU OF PRISONS CENTRAL/NATIONAL FUNDS COLLECTION CENTER, AND TO KEEP THE INCORRECTLY ENCLOSED MONEY ORDER WHEN IT IS RETURNED (MONTHS FROM NOW), AND THAT BY THEM DOING THIS IT WOULD SHOW GOOD FAITH ON THEIR PART, AND BRING THESE PROCEEDINGS TO A CLOSE.

HOWEVER, SHOULD THE COURT NOT AGREE WITH THIS TO ALLOW THIS PLAINTIFF TO RETURN BEFORE IT TO REQUEST BACK MONIES DUE (INTREST), WHEN HE FINALLY RECEIVES SAID MONEY ORDER IN 4 OR 5 MONTHS (IF AT ALL).

DATE:

3-22-05

Respectfully submitted



EMANUEL T. NEWMAN
13418-039

F.C.I. OXFORD

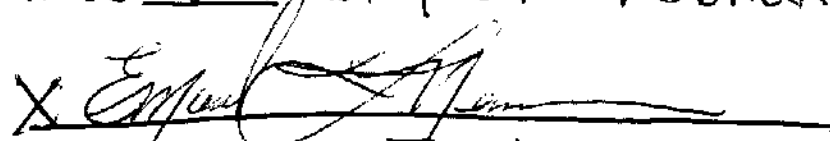
P.O. Box 1000

OXFORD, Wis 53952-1000

CERTIFICATE OF SERVICE

I, EMANUEL T. NEWMAN, PURSUANT TO 28 U.S.C. § 1746, DO HEREBY STATE UNDER THE PAINS, AND PENALTIES OF PERJURY, THAT I HAVE MAILED COPIES OF THE ATTACHED DOCUMENT TO ALL PARTIES CONCERNED.

THIS 22 DAY OF FEBRUARY 2005

X 
EMANUEL T. NEWMAN

Copies To:

U.S. ATTORNEY
240 WEST THIRD STREET, SUITE 316
WILLIAMSPORT, PA 17701-6965

UNITED STATES DISTRICT COURT
228 WALNUT STREET, Rm 1060
HARRISBURG, PA 17108-0983